UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,600	12/19/2000	Preston J. Hunt	81674-027 3214	4765

7590   11/20/2002

Mr. Glenn J. Perry
PILLSBURY MADISON & SUTRO LLP
1100 New York Avenue, N.W.
Washington, DC 20005-3918

EXAMINER
ABEL-JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2175	

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the corresp ndenc address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-24* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on *5/07/01* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. **DOV POPOVICI**

SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2.   Claims 1-4, and 6-29 are rejected under 35 U.S.C. 102(e) as being anticipated by

Easty et al. (U.S. Patent No. 6,189,008).

As to claim 1, Easty et al. discloses an automatic user preference detection system,

comprising:

an accessing device (See figure 1, client 16) to access attribute information (See column

2, lines 66-67, wherein "attribute information" reads on "aggregate profile") of media content

files (See column 2, lines 58-60, wherein "media" reads on "digital") distributed to a user by a

media content file distribution source (See figure 1, end server 13);

a database to store a preference file (See figure 1, end point database 14) for each user of

the media content file distribution source (See figure 1, end server 13), wherein the preference

file for each user is utilized (See column 4, lines 22-23, wherein "preferences file" reads on "user

information") to determine which media content file to select to distribute to the user (See

column 2, lines 55-57);   IER

a program adapted to learn (See figure 1, agenting section 161, also see column 4, lines

15-18, wherein "adapted to learn" reads on "personal assistant"), based on the user's responses to

the play of media content files, the user's media content file preferences (See column 4, lines 18-

21).

As to claim 2, Easty et al. discloses the system of claim 1, wherein the media content files

are music files (See column 2, line 14).

As to claim 3, Easty et al. discloses the system of claim 1, wherein a rate at which the

program learns the user's media content file preferences is configurable (See column 4, lines 66-

67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously

updated").

As to claim 4, Easty et al. discloses the system of claim 1, wherein the system learns from

the user's responses made with user control point (See Figure 1, client 16, also see column 3, line

49, wherein "user control point" reads on "keyboard, mouse").

As to claim 6, Easty et al. discloses the system of claim 1, wherein the media content files

are sent to the user in an Internet stream (See Figure 1, network 15, wherein "internet" reads on

"network", also see "column 1, line 47, wherein "stream" reads on "downstream data").

As to claim 7, Easty et al. discloses the system of claim 1, wherein the program is programmable to periodically select media content files based upon alternative criteria (See column 2, lines 53-57, also see column 4, lines 22-24, wherein "alternative criteria" reads on "user information").

As to claim 8, Easty et al. discloses the system of claim 1, wherein the program is further adapted to learn (See figure 1, agenting section 161, also see column 4, lines 15-18, wherein "adapted to learn" reads on "personal assistant") based on the responses of other users of the media content distribution source to the play of media content files (See column 4, lines 18-21) having similar attributes (See column 4, lines 62-65).

As to claim 9, Easty et al. discloses an automatic user preference detection system, comprising:

a database (See figure 1, end point database 14) to store a media content preference file (See column 2, lines 58-60, wherein "media" reads on "digital") for a user of a media content distribution source (See figure 1, end point server 13);

a read/write device to read from and write to the database (See figure 1, end point server 13);

a program adapted to learn (see column 4, lines 15-18, wherein "adapted to learn" reads on "personal assistant"), based on the user's responses to the play of media content files, the user's media content file preferences (See column 4, lines 18-20).

As to claim 10, <u>Easty et al.</u> discloses the system of claim 9, wherein the media content files are music files (See column 2, line 14).

As to claim 11, <u>Easty et al.</u> discloses the system of claim 9, wherein a rate at which the program learns the user's media content file preferences is configurable (See column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated").

As to claim 12, <u>Easty et al.</u> discloses the system of claim 9, wherein the system learns from the user's responses made with a user control point (See Figure 1, client 16, also see column 3, line 49, wherein "user control point" reads on "keyboard, mouse").

As to claim 13, <u>Easty et al.</u> discloses the system of claim 9, wherein the media content files are sent to the user in an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data").

As to claim 14, <u>Easty et al.</u> discloses the system of claim 9, wherein the program is programmable to periodically select media content files based upon alternative criteria (See column 2, lines 53-57, also see column 4, lines 22-24, wherein "alternative criteria" reads on "user information").

As to claim 15, <u>Easty et al.</u> discloses the system of claim 9, wherein the program is further adapted to learn (see column 4, lines 15-18, wherein "adapted to learn" reads on "personal assistant") based on the responses of other users of the media content distribution source to the play of media content files having similar attributes (See column 6, lines 11-16).

As to claim 16, <u>Easty et al.</u> discloses a method of automatically detecting media content preferences of a user of a media content file distribution source (See column 10, lines 37-40), the method comprising:

accessing attribute information of media content files (See column 2, lines 66-67, wherein "attribute information" reads on "aggregate profile") distributed to a user by the media content (See column 2, lines 58-60, wherein "media" reads on "digital") file distribution source (See figure 1, end server 13);

reading from and writing to a database (See figure 1, end point database 14) in which a media content preference file is stored (See column2, lines 58-59) for a user of the media content file distribution source (See figure 1, end point server 13);

ulitizing a program that determines (See column 4, lines 15-18), based on a user's responses during the play of media content files the user's media content preferences (See figure 3a, and also see column 6, lines 50-53, wherein "during the play" reads on "continuously update"), wherein the program selects media content files to send to the user based on the determination of the user's media content file preferences (See column 4, lines 18-22).

As to claim 17, <u>Easty et al.</u> discloses the method of claim 16, wherein the media content files are music files (See column 2, line 14).

As to claim 18, <u>Easty et al.</u> discloses the method of claim 16, wherein a rate at which the program learns the user's media content preferences is configurable (See column 4, lines 66-67, wherein "the rate" reads on "real time" and wherein "configurable" reads on " continuously updated").

As to claim 19, <u>Easty et al.</u> discloses the method of claim 16, wherein the system learns from the user's responses made with a user control point (See Figure 1, client 16, also see column 3, line 49, wherein "user control point" reads on "keyboard, mouse").

As to claim 20, <u>Easty et al.</u> discloses the method of claim 16, wherein the entertainment content (See column 2, line 12) is sent to the user in an Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see "column 1, line 47, wherein "stream" reads on "downstream data").

As to claim 21, <u>Easty et al.</u> discloses the method of claim 16, wherein the program is programmable to periodically select media content files based upon alternative criteria (See column 2, lines 54-57, also see column 4, lines 22-24, wherein "alternative criteria" reads on "user information").

As to claim 22, <u>Easty et al.</u> discloses the method of claim 16, wherein the program is further adapted to learn (see column 4, lines 15-18, wherein "adapted to learn" reads on "personal assistant") based on the responses of other users of the media content distribution source to the play of media content files having similar attributes (See column 6, lines 12-15, also see column 4, lines 62-65).

As to claim 23, <u>Easty et al.</u> discloses a preference detection software program (See column 8, lines 31-32) comprising:

a computer-readable medium (See figure 1, client 16); and

a computer-readable program code (See column 4, line 17), stored on the computer-readable medium (See column 4, line17), utilized for

receiving attribute information of media content files distributed by a media content distribution source (See column 4, lines 50-53, wherein "attributes" read on "characteristics of the content"),

reading from and writing to a database (See figure 1, end point database 14) media content preference files (See column 2, lines 58-60, wherein "media" reads on "digital") used by the media content distribution source (See figure 1, end point server 13),

determining, based on responses of a user (See column 6, lines 43-44) of the media content distribution source to playing of media content and responses of other users to media files with similar attributes (See figure 3a, and also see column 6, lines 50-53, wherein "during the play" reads on "continuously update"), the user's entertainment content preferences (See column 2-6), and

selecting media content files to send to the user based on the user's determined media

content file preferences (See column 5, lines 4-7).

As to claim 24, <u>Easty et al.</u> discloses the preference detection software program (See

column 8, lines 31-32) of claim 23, wherein the media content files are music files (See column

2, line 14).

As to claim 25, <u>Easty et al.</u> discloses the preference detection software program (See

column 8, lines 31-32) of claim 23, wherein a rate at which the program learns the user's media

content preferences is configurable (See column 4, lines 66-67, wherein "the rate" reads on "real

time" and wherein "configurable" reads on " continuously updated").

As to claim 26, <u>Easty et al.</u> discloses the preference detection software program (See

column 8, lines 31-32) of claim 23, wherein the system learns from the user's responses made

with a user control point (See Figure 1, client 16, also see column 3, line 49, wherein "user

control point" reads on "keyboard, mouse").

As to claim 27, <u>Easty et al.</u> discloses the preference detection software program (See

column 8, lines 31-32) of claim 23, wherein the media content files are sent to the user in an

Internet stream (See Figure 1, network 15, wherein "internet" reads on "network", also see

"column 1, line 47, wherein "stream" reads on "downstream data").

As to claim 28, Easty et al. discloses the preference detection software program (See column 8, lines 31-32) of claim 23, wherein the program is programmable to periodically select media content files based upon alternative criteria (See column 2, lines 54-57, also see column 4, lines 22-24, wherein "alternative criteria" reads on "user information").

As to claim 29, Easty et al. discloses the preference detection software program (See column 8, lines 31-32) of claim 23, wherein the program is further adapted to learn (see column 4, lines 15-18, wherein "adapted to learn" reads on "personal assistant") based on the responses of other users of the media content distribution source to the play of media content files having similar attributes (See column 6, lines 12-15, also see column 4, lines 62-65).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Easty et al. (U.S. Patent No. 6,189,008) in view of Laursen et al. (U.S. Patent No. 5,805,804).

As to claim 5, Easty et al. is silent on the method of user control point for the client system, he does teach the end user device to access the network to be a television set (See column 3, lines 52-53).

Easty et al. does not disclose wherein the user control point is a remote control.

Laursen et al. discloses wherein the user control point is a remote control (See column 6, lines 11-12).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. to include the user control point is a remote control.

It would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have modified Easty et al. by the teaching of Laursen et al., because using a remote control as user control point for the end user accessing device provides convenience of system access and control and providing time savings and would allow an individual to control the device remotely.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Easty et al. (Publication No. 2001/0047349)

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 703-305-8114. The examiner can normally be reached on 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-746-7239 for regular

communications and 703-746-7240 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

Neveen Abel-Jalil
November 17, 2002

DOV POPOVICI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100